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International Court of Justice

H1008 – 0001

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN ~~XXXX~~ BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

6 July 1946

COMMISSIONER:

Colonel A.M.S. Neave

THE S. S.

(THE COMMISSION CONVENED at 1010 HOURS.)

BY THE COMMISSIONER:

Before we continue with the re-examination of this witness, I should like to read the first two paragraphs of an Order of the Tribunal dated 3 July:

"1. The application of Dr. Pelckmann that the proceedings against the SS be separated, is denied.

"2. The application to extend hearings before the Commission is denied and the Tribunal reaffirms its decision that there should be no hearings after July 5 except in cases especially permitted by the Commissioners."

Applications for hearings to be held after the 5th of July will be discussed at 2 o'clock in Room 272.

Now there is one subject, ~~XXXXX~~ Mr. Elwyn-Jones, I would like to bring up and that is the case of the Ordinance Ordnungs Polizei. At the very beginning of hearings of the Commission, I think it was actually the first day, the 20th of May, there was some discussion here as to how far the Ordinance ~~Ordnungs~~

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Polizei was indicted. The Prosecution made a statement on that occasion to the effect that the Ordinance Polizei were only indicted in so far as certain of their membership belonged to the SS. That occurred during the hearing of the witness Bader. That witness was eventually withdrawn and did not give very much evidence and as a result the transcript of those proceedings has not as yet been published. I do not think it may be necessary to go to the trouble of doing so if we could get a confirmation of the previous statement of the Prosecution. I am going to hand xxxx Dr. Pelckman's request to you, in writing, for confirmation of Colonel Griffith-Jones' statement, because some confusion arose in the mind of defense counsel at the time. I think you would probably prefer to consider that now and perhaps later on, next week, it might be brought up here.

MR. ELWYN JONES: I think that would be the most convenient course.

COLONEL NEAVE: I don't think it right to discuss it until then.

MR. ELWYN JONES: I would like to consider the position and perhaps it might be convenient for the Prosecution to reply in writing, through you, to the defense counsel.

COLONEL NEAVE: I think if any clarification is actually required it should form part of the record.

DR. REINICKE, a witness, took the stand and testified as follows:

BY THE COMMISSIONER:

Q Do you understand that you are still under oath?

A Yes.

COM. A.
Take 1 - 3
Lesser
6 July
Reinicke

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REDIRECT EXAMINATION

BY DR. PELCKMANN:

Q Witness, you told the Prosecution that the Court Officers of the concentration camps were responsible for the fact that even though there were some unnatural death causes, these matters were put into the death register of the concentration camp.

A I said that the investigations through the SS Police Court System were carried out by the "Gerichtsherr" (War Lord) or Court Officer. There were such court officers also in the concentration camps and if there were any such unnatural death causes or criminal actions, then it would have been the duty of the court officer to report this to the Gerichtsherr so that the Gerichtsherr could hand over these charges to the regular court for trial.

Q Were these court officers under your jurisdiction -- those that were active in the concentration camps?

A The Court Officer, as such, is not a member of the disciplinary or court system of the SS and Police and therefore is not under its jurisdiction. He is only bound by the notices or advice of the Gerichtsherr. If the court officer had any suspicions of the unnatural deaths in these concentration camps then he could have requested that he be shown the death register for investigation. Such investigations were done at the end of 1943 and during the year 1944 by commissions which were named through the Main Office SS Court. The result of that was that court actions were instigated in all suspicious cases. Due to the fact that the court system or the investigation system during the course of 1944 got closer and closer to the actual criminal activities or criminal occurrences, the superiors of these groups fought with all the power that was available

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to them against these investigations. It got so far that during the course of 1944 Obergruppenfuehrer Pohl and Obergruppenfuehrer Kaltenbrunner, in a joint statement to Reichsfuehrer-SS Himmler, requested that the investigations of the SS Court be discontinued due to the fact that the discipline of the prisoners was endangered through these investigations. The result of that was that Himmler did not aid these court investigations any more within these concentration camps. However he still permitted these investigations to go on in an even greater scale than they had gone on before. The main reason why tody the number of investigations is so much smaller than the number of actually known criminal actions is due to the following reason: It was up to the end of 1944 that the SS investigation system did not know that these matters were carried out due to orders from the top, that is, orders from Pohl and Kaltenbrunner.

Q Since the prosecutor brought up the name of the court officer is there a possibility now that these people were connected by certain circles that were in some way active within the concentration camps, that these persons ~~MRKH~~ are today accused of participating in these criminal actions within concentration camps?

A The investigations showed that the circle of criminals could be found in the following categories: First of all the criminals could be found in the circle of the concentration camp commanders; 2, in the circle of the members of the commanding staff of the concentration camp; 3, in political sections of the concentration camps; 4, criminals could be found in the circle of medical officers within the concentration camps; 5, to a very large extent within the circle of prisoners themselves. In addition to that it ~~MRKKH~~ was found that the superiors gave direct orders which led to the instigation of court proceedings. One member was Gruppenfuehrer Gluecks, Chief of Amt Group D of the Economic and Administrative Main Office and its superior, the above mentioned Pohl. Secondly,

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Grawitz, as the chief of the medical staff, and thirdly Mueller, from the Reich Security Main Office. However it was found out definitely that the guarding units of the concentration camps did not have anything to do with these criminal acts. It was also found out that these persons in small groups carried out these criminal acts but that in general the organizations to whom they belonged did not have anything to do with the activities.

Q Do you mean also that persons that belonged to the circles which you mentioned acted correctly and were not in any way participating in any of the criminal actions?

A Yes, we found out during these investigations that some commanders of concentration camps saw to it that their camps were in order. We also found that some medical officers did not participate in any of the criminal acts within these concentration camps and also we found that members of commanding staffs of these concentration camps did not participate and did not know anything of the criminal acts that occurred within the camp.

Q The Prosecution maintained that it was a certain duty of the SS man to shoot upon the order of Hitler and to carry out without any hesitation any kind of criminal acts on the order of Hitler.

A That is not correct. The duty of obedience was the basis of the discipline within the SS. That is, given orders were to be carried out. However, there was a borderline to this duty of obedience and that borderline was criminal acts. Here paragraph 47 of the Army Courts Martial Manual was also used for the SS, according to which every person makes himself liable for trial if he carries out an order of a superior officer if he knows that the purpose of this order is a criminal act. Completely out of comparison with this duty of obedience and discipline were the orders of Hitler. Hitler, in 1933, through the so-called Enforcement or Power

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Law, received all powers into his own hands, including the power to make all laws. According to the doctrines of all nations, all decrees which are given out by the Chief of State, who has such powers, and which are worded like such laws - that these actually are lawful laws of the nation. Every member of the State has to carry out such orders and he could be forced to do so by the power of the State.

COLONEL NEAVE: Dr. Pelckmann, you have only got a very short time to hear your final witness and this witness is giving us rather a lecture. I think he had better keep his answers shorter if we are going to have time to hear your final witness. In any case this doesn't appear to be the answer to your question.

DR. PELCKMANN: It is sufficient what he has already said. I am not interested in a more detailed answer.

Q I believe that you did not understand correctly the question of the Prosecution and that is the question concerning the participation of the SS or certain circles of the SS in the shootings of the 30th of June 1934. Do you know whether or not members of the at that time Verfuegungstruppe, Liebestandarte Adolf Hitler, participated in those shootings which you had testified about and which other witnesses also testified about? Do you know whether or not the shootings were carried out according to decrees by special courts martial?

COLONEL NEAVE: Now this question can be answered very shortly, can't it?

A Yes, I know that the Liebestandarte carried out special courts martial sentences, through shooting.

Q The Prosecution showed you a decree of Himmler, I believe of October 1943, No. PS-744. This decree was supposed to have been sent, as the distributor shows, to the Main Office SS Court. You stated that you could not remember this decree. Maybe it will refresh your memory or you can give us the reason why the

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Main Office SS Court also received this order, if I read to you shortly the contents of this decree. According to this order by OKW, Keitel, paragraph 4, the partisans or guerilla members which were captured during the war were to be regarded as regular prisoners and that they were to be used as workers through the Labor Recruitment Office of Sauckel. Is it possible that the main office SS Court received this decree because according to military law these captured partisans or guerilla fighters were to be shot and now there had been a change and these men were to be used as workers instead?

A No, that could not be, since if that had been the case this decree would have had to go to the Courts that were convening near the front lines but not to the main office SS Court back at home. No, I believe that the reason why we received this order is that certain orders of Keitel, as Chief of the OKW, were, through a certain system of distribution, at times distributed to all the offices in the Reich and it must be for that reason that we received this decree.

COLONEL NEAVE: Do you have many more questions, Dr. Pelckmann?

DR. PELCKMANN: No, I am finished.

COLONEL NEAVE: Can this witness be excused now?

DR. PELCKMANN: Yes.

COLONEL NEAVE: Do you want to keep him around any longer?

DR. PELCKMANN: Yes, he is participating in checking the affidavits.

COLONEL NEAVE: I see. Well, he may leave the court now.

(The Commission adjourned at 1050 hours.)

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COM. A.
Take 1 - 8
LESSER
6 July
Reinicke.

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The foregoing is a true and correct transcript of the testimony of DR. REINICKE, taken on 6 July 1946.

Mabel A. Lesser
Reporter 1 - 7

CERTIFIED TO:

Commissioner

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(The Commission adjourned at 1050 hours.)

The foregoing is a true and correct transcript of the testimony of DR. HEINICKE, taken on 6 July 1946.

MABEL A. LESSER
Reporter

CERTIFIED TO:

A. H. S. MEAVE
Commissioner